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THE

STRUGGLE FOR MONROE COUNTY

BY

HOWARD L. OSGOOD.

Read before the Rochester Historical Society, May 13, 1892.

By the gift of Mrs. Julia M. Griffith, the Historical Society has become possessed of two letters addressed to her father, Roswell Babbitt, one written from Rochester on January 9, 1819, by Daniel D. Barnard, and the other from Albany on January 30, 1819, by Dr. Matthew Brown, Jr. Mr. Babbitt, at the time of the first letter was at Albany acting as agent before the Legislature for the petitioners for a new county to be formed out of the old counties of Ontario and Genesee, and composed of the towns which two years later were erected into the county of Monroe.

Mr. Barnard states the eagerness of the Rochester people to hear of the labors of their delegation at Albany, but expresses a great doubt of their success. The letter from Dr. Brown, one of the delegates, is written to Mr. Babbitt after he had returned to Rochester, and discusses the political situation at Albany which is likely to affect the success of the scheme at that session. He says: "A Senator is to be appointed next Tuesday or Wednesday. The Tammanys have nominated Samuel Young; Clintonians, J. C. Spencer; Federalists, R. King. All are determined to support their candidates. The Republicans are to have a caucus next Monday evening, but little expectation that they will abide by their promise. * * * There is with some of us, a serious looking to the powers that may come into office. What may be the object will probably be disclosed if we should get a new county. * * * I have some fears about dabbling in politics, but shall use all my influence to keep our cause clear from the effect of a connection with any party. The House is favorably inclined to hear and our opponents likewise seem rather disheartened, but threatened vengeance upon us in the Senate and I think that is the worst place for us. * * In the present state of things it seems to me utterly impossible that we can make any good use of party."

From 1816 to 1821, Ontario county included the eastern half of Monroe, all of Wayne, all of the present Ontario, the eastern part of Livingston and all of Yates counties. Genesee county included the western half of Monroe, the western part of Livingston, all of Orleans and of the present Genesee counties. The county seat of Genesee was at Batavia and that of Ontario was at Canandaigua, the two being distant apart some fifty or sixty miles. The village of Rochester was situated between the two, partly in Genesee county and partly in Ontario county, being thus divided by the Genesee river.

In those days debtors who were unable to pay judgments against them were liable to imprisonment for debt, but the sheriff of the county to whom an execution for the collection of the debt was delivered could arrest the debtor only within the limits of his jurisdiction. Old residents of Rochester say that it was a common thing to see a luckless debtor running with all speed from the pursuing sheriff, to cross the middle of the bridge connecting the two parts of the village, for when he crossed that line he could not be arrested by the sheriff of the county on the other side.

The two counties, Ontario and Genesee, in 1816, had a population of about 80,000 and comprised a territory of about 37,000 square miles, a district considerably larger than the state of Rhode Island. The difficulties which the people of Rochester and the neighborhood had in doing county business were enough to suggest the desirability of forming a new county with Rochester as its seat of justice. But little commercial business was done by these persons either at Canandaigua or Batavia, except in connection with the courts held at those places, and the county clerk's, sheriff's and treasurer's offices. Their ordinary business did not take them there in those days; the roads were bad and the bridges were poor, and the excursions of

travelers from Rochester to these county seats were not only arduous, but sometimes even dangerous. Neither Canandaigua nor Batavia was a center of trade, while Rochester was, and the reasons of the promotors of the scheme were both forcible and urgent.

As early as December, 1816, the matter of the division of Ontario and Genesee counties was agitated in Rochester and a subscription list was circulated to raise funds for erecting the Court House and Gaol, "provided the Legislature at their next session shall * * * incorporate a new county from the northwest part of Ontario and the north part of Genesee counties and shall fix the seat of justice of said new county * * * near the bridge at the Genesee Falls."

Subscriptions were obtained to the amount of $6,722.50 from residents of the village of Rochester, of which amount $387.50 was to be paid in lumber, team work and labor. Charles Carroll, William Fitzhugh, Nathaniel Rochester and the firms of Montgomery & Rochester, F. Brown & Co., and Frederick, Abraham and Charles Hanford subscribed $500 each. Every prominent citizen added his name to the list.

The petition circulated at that time among the inhabitants of the counties of Ontario and Genesee, praying for a new county, recites, among other things, that the administration of justice should be speedy and certain; that four terms of court were held in each year in Ontario county, and three in Genesee; that it was not unusual for a moiety of the issues joined in each of those counties to be unavoidably put over from term to term; that in the short time of five years a wilderness had been made to retire before the hand of industry and to give place to villages, wealth and the arts; that while the petitioners were led by multiplied concerns to the settlements on the Genesee river, it was seldom that they visited Canandaigua or Batavia for any other objects than attendance upon courts or calls at public offices; that those places possessed no local advantages, independent of being shire towns, to render them seats of business, and sententiously states, with obvious reference to Canandaigua and Batavia, "In vain does man design towns and villages where nature forbids."

This petition asked for a county substantially of the dimensions and bounds of the present Monroe, and was signed by several thousand persons. Two plans were evolved about the same time, looking to the desired result. One was "to set off twelve miles on the west side of Ontario county and twelve miles on the east side of Genesee county, and to make two new counties about twenty-four miles square each." The other was to make this whole district, twenty-four miles wide by forty-eight miles long, into one county, with a county seat at Avon.

Petitions opposing the division were also circulated and signatures were obtained to the number of a little less than two thousand. Residents of Canandaigua and of a few other parts of the two old counties actively resisted any division whatever, being led in their opposition by county and state officers. Colonel Nathaniel Rochester and Dr. Matthew Brown, Jr., were selected as agents of the petitioners for the new county and went to Albany early in 1817 to present the petitions and to advocate the plan, as well as to secure the incorporation of the village of Rochester. At the session of the Legislature a favorable report was secured from the committee of the Assembly, but the plan failed in the Assembly itself. The village of Rochesterville was, however, incorporated on April 21, 1817, and retained that name until April 12, 1822, when it was changed to Rochester.

No active steps were taken to proceed in the matter of the division until the autumn of 1817, when meetings were held in the different towns which it was proposed to unite in the new county, and petitions were circulated similar to that presented to the previous Legislature; but the writer has found no information as to what was done before the Assembly in the spring of 1818.

The desire for the division of the old counties kept increasing and an active campaign was begun in October, 1818, by the appointment of delegates from the towns, and a meeting at A. Ensworth's in Rochesterville. Pittsford, Brighton, Henrietta, and Perrinton, in Ontario county, and Riga, Parma, Gates and Ogden in Genesee county, were represented at this convention. It was decided that these towns together with Penfield, Murray, Sweden, and a part of Bergen, should be included in the proposed county. A committee was appointed to prepare a petition to the Legislature and separate committees in each town were selected to circulate it. Finally it was voted "that Roswell Babbitt be a committee to furnish money to defray the expenses of publishing" certain notices. Mr. Babbitt must have been not only public spirited, but self-sacrificing as well. A month later, at a meeting of the citizens of Rochesterville, Colonel Rochester, Dr. Matthew Brown, Elisha Ely, Roswell Hart, and Augustus G. Elliott were appointed a committee with general powers to promote the new county project, and Messrs. Ely, Babbitt, Elisha Johnson, and Dr. Brown went to Albany in January, 1819, as agents of the petitioners. The petition was presented to the Assembly on January 12th, and was immediately referred to a committee.

At this time the State politics were much confused, but perhaps the most important of the parties were the Clintonian and Anti-Clintonian. Ontario county was supposed

IN EXCHANGE

to be strongly Clintonian, the Senate was Anti-Clintonian, and the Assembly was Clintonian. The committee reported favorably on January 29th, but two attempts to secure favorable action in the Assembly failed of success. This failure was due to the fear of the rival political parties that the division of the old counties and the erection of new ones would introduce elements of uncertainty into the campaigns of that spring, and of the succeeding spring, and while each party knew fairly well what its status was in the counties as they then stood, to erect new ones was deemed impolitic at that time.

In the fall of 1819 there were still greater energy and activity on the part of the divisionists, who had suffered defeat in the elections of the previous spring. A convention of delegates from the towns interested in the proposed division was held on December 2, 1819, at A. Ensworth's, in Rochesterville, and committees were appointed for the purpose of appearing before the coming Legislature. Their preparations were more thorough than ever before; the petitions were more industriously circulated; meetings were held more often, and all possible machinery was set in motion to advance the success of the scheme. Among other things, statistics were obtained as to the amount of business done at Rochester, for comparison with that done at Canandaigua and Batavia. The warehousemen on the Genesee reported that between April 20 and December 20, 1819, there were shipped from their warehouses 19,954 barrels of flour and 8,034 barrels of potashes, besides pork, apples, whiskey and other commodities produced in the region.

Levi Ward, Jr., Elisha Ely and Enos Pomeroy of Rochesterville were the agents to appear before the Legislature on the subject of the division. Mr. Pomeroy went to Albany in January, 1820, and in connection with Judge Charles H. Carroll, who appeared in behalf of the petitioners desiring the erection of a county south of Monroe, presented the petitions of the towns to the Legislature. The petition at this time stated, among other things, that the proposed limits of the northern county contained twenty-five to thirty thousand people "and a very flourishing village of upwards of fifteen hundred inhabitants doing much more business than any other in the state, west of Utica." It was referred to the standing committee of the Assembly on counties, which after hearing many parties both for and against the proposed division, recommended that the matter be postponed to the succeeding Legislature. In this the Assembly concurred. The year 1820 was a presidential year. At this period the electors for president and vice-president were appointed by the Legislature, and the political complexion of the Legislature to be elected in the spring of 1820 was of more than ordinary importance. This fact doubtless had much to do with the report of the committee of the Assembly and the postponement of all proceedings by the Legislature of that year.

Nevertheless, the petitioners were not discouraged by four successive failures, and with increased zeal and vigor took proceedings during the summer and autumn of 1820 to make their next attempt a sure success. At a meeting of the citizens of Gates and Brighton, held in Rochesterville on August 23, 1820, committees were again appointed to push the project, and on October 28, 1820, Nathaniel Rochester and Elisha B. Strong were appointed the agents to go to Albany. The opponents of the divisionists were equally in earnest, although fewer in number. Led by such able generals as John C. Spencer and Myron Holley, Assemblymen from Ontario county, and Samuel M. Hopkins, an Assemblyman from Genesee county, the anti-divisionists were able to cope with a much larger force on equal terms. The Legislature met on January 9, 1821. The petitions for the new counties were presented this time to the Senate. Counter petitions by thirteen hundred remonstrants were offered by the opponents of division. On January 22d the bill to erect Monroe county passed the Senate by a unanimous vote.

In the Assembly the bill met with vigorous opposition from Messrs. Spencer, Holley and Hopkins, who urged that no county should be erected of territory lying on both sides of the Genesee river, as it would subject half the inhabitants to great inconvenience and expense, and that the division would merely promote the interests of a few lawyers, merchants and tavern-keepers residing at the new county seats. They stated that county charges, before the division, fell lightly on individuals and that the time, which was a period of serious financial depression, was no propitious for raising the sums necessary to erect expensive buildings.

Besides this, the Erie canal was expected to make material changes in the distribution of business through the counties of Ontario and Genesee, and it might be found most unwise to have made the division when the canal should be completed and the traffic upon it should be fully under way. They also urged that there were many other places better adapted than "Shingletown," as they called the village of Rochester, for the seat of justice, and charged that the inhabitants of the region about did not desire a new county but were over-persuaded by a few southern gentlemen who had acquired landed interests which would be greatly increased in value by

the proposed change. It was also stated that in the near future a tier of lake counties, along the southern shore of Lake Ontario, would certainly be erected and that the erection of Monroe was an entering wedge for the purpose; that it was better to have as few county clerks' offices as possible, in which deeds and such other instruments were to be recorded, as the examination of titles would be more easily conducted where the territory of the county was large.

In the meantime their sympathizers were acting vigorously in the two counties to create reasons for the defeat of the bill. The judge of Ontario county opened his court at sunrise and continued the sessions day after day, until late at night, giving scarcely time for those in attendance to obtain food or sleep. His calendar was soon exhausted. The people of Canandaigua, opposing the division, were highly elated and boasted that the evils complained of were but imaginary and that any court anxious to complete what business was before it could easily do so. The county clerks kept their offices open early and late. But it was too late. The advocates of division pressed the arguments that Ontario and Genesee counties were too large and that they had exerted undue influence in the councils of the state in many different ways, and that the petitions which had been presented to five sessions of the Legislature show sufficient reason for the passage of the bill. It passed after much filibustering by Mr. Spencer and his colleagues by a vote of 73 to 27. The council of revision then having the veto power, approved the bill on February 23, 1821, and the act stands as chapter 57 of the laws of 1821, and is entitled, "An act to erect a new county by the name of Monroe, from parts of the counties of Ontario, Genesee, and for other purposes."

The new county, named after James Monroe, then the President of the United States, included the towns of Gates, Parma, Ogden, Clarkson, Brighton, Penfield, Perinton, Pittsford, Mendon, Henrietta, a part of Sweden, a part of Rush, and a portion of Caledonia, which was newly named the town of Inverness. Within the boundaries of the new county were also such part of the territory in the counties of Ontario and Genesee "as is included between the southern shore of Lake Ontario on the south, the boundary between the United States and Upper Canada on the north, the easterly line of the town of Penfield continued to the said boundary line on the east, and the easterly line of the triangle continued to the said boundary line, on the west." Commissioners were appointed to determine the proper site or sites for a court house and gaol to be erected in the county of Monroe. A Court of Common Pleas and a Court of General Sessions were established and terms of said courts were provided for. One member of Assembly was apportioned to the new county. Elisha Ely and Levi Ward, Jr., "of the town of Brighton," and James Seymour "of the town of Clarkson," were appointed commissioners to superintend the building of the court house and gaol, and two assessments of five thousand dollars each were authorized to be collected for the expenses of the erection of the county buildings and for the contingent expenses of the county.

The council of appointment, in whom the power of naming the county officers was vested, on March 5, 1821, appointed Elisha Strong as the first judge of the Court of Common Pleas, Timothy Childs as District Attorney and Nathaniel Rochester as County Clerk; on March 7th James Seymour was appointed sheriff and on March 10th Elisha Ely received his commission as surrogate. At the election of the same year Nathaniel Rochester was elected the first member of Assembly from the new county and he sat in the Legislature of 1822; in November, 1822, Elisha Ely was appointed County Clerk in his place, and March 28, 1823, Orrin E. Gilbert was appointed surrogate in the place of Mr. Ely.

The only further question to be settled after the passage of the bill was that of the site of the county buildings. It appears that three lots were offered to the commissioners. One, the lot now occupied by the court house in this city, and two others on the east side of the river, one being a part of Enos Stone's garden, and another a lot on North St. Paul street. The court house lot (which was finally accepted) was argued to be the best site for the purpose, for a number of reasons which were comparisons of the east and west sides of the river and cannot but be interesting at the present time, while also showing that the present rivalry is as old as the settlement. It was urged that the larger part of the new county lay west of the river and that the territory on the west there would admit of a much larger population than that on the east, "the west having much more territory, and the east having much more poor land; that the soil on the west side of the river is more sandy and consequently is dryer and less muddy in wet weather;" that the lots offered on the east side were less comfortable for use because more exposed to the high, cold winds in winter and that the expansion of the population of the village would certainly be toward the west to meet the incoming trade upon the canal.

"In vain does man design towns and villages where nature forbids."

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